

JESSE A. P. BAKER (SBN 36077)  
PITE DUNCAN, LLP  
The Ogden Building  
9311 SE 36th St, Ste 100  
Mercer Island, WA 98040  
Telephone: (425) 644-6471

Honorable Brian D. Lynch  
CHAPTER: 13  
HEARING DATE: May 13, 2015  
HEARING TIME: 1:30 PM

**Mailing Address:**

4375 Jutland Drive, Suite 200  
P.O. Box 17933  
San Diego, CA 92177-0933  
Telephone: (858) 750-7600  
Facsimile: (619) 590-1385

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WASHINGTON - TACOMA DIVISION

In re

WILLIAM EDWARD BURCHFIELD,

Debtor(s).

Case No. 15-40991-BDL

Chapter 13

OBJECTION TO CONFIRMATION OF  
CHAPTER 13 PLAN

BENEFICIAL MORTGAGE CORP (hereinafter "Creditor"), secured creditor of the above-entitled Debtor, William Edward Burchfield (hereinafter "Debtor"), hereby objects to the Chapter 13 Plan filed by Debtor in the above-referenced matter. HSBC Mortgage Services acts as the servicing agent for Creditor. The basis of the objection is stated below:

**I.**

**STATEMENT OF FACTS**

1. On or about March 21, 2001, Daphne Burchfield (hereinafter "Borrower"), for valuable consideration, made, executed and delivered to Creditor a Promissory Note in the principal sum of \$135,000.07 (the "Note"). Pursuant to the Note, Borrower is obligated to make monthly principal and interest payments.

2. On or about March 21, 2001, Borrower made, executed and delivered to Creditor a Deed of Trust (the ADeed of Trust®) granting Creditor a security interest in certain real property located at 4929 219th Ave. SW, Centralia, Washington 98531 (hereinafter the ASubject Property®),

OBJECTION TO CONFIRMATION OF PLAN  
Page - 1 -

- 1 -

Jesse A. P. Baker  
PITE DUNCAN, LLP  
4375 Jutland Drive; P.O. Box 17933  
Telephone: (425)644-6471

1 which is more fully described in the Deed of Trust. The Deed of Trust was recorded on March 20,  
2 2001, in the official records of the Thurston County Recorder's office.

3 3. On or about March 6, 2015, Debtor filed a Chapter 13 bankruptcy petition. Debtor's  
4 Chapter 13 Plan provides for payments to the Trustee in the sum of \$300.72 per month for thirty-six  
5 (36) months and ongoing payments direct to the creditor. However, the Debtor's Chapter 13 Plan  
6 makes no provision for the cure of Creditor's pre-petition arrears.

7 4. Creditor is in the process of finalizing its proof of claim for this matter and estimates  
8 that its total secured claim is in the approximate amount of \$144,876.21 and that its pre-petition  
9 arrearage claim is in the approximate amount of \$9,093.91, representing: \$8,591.93 in County Taxes  
10 and \$501.98 in Insurance Premiums.

11 5. Debtor will have to increase the payment through the Chapter 13 Plan to this Creditor  
12 by approximately \$151.57 monthly in order to cure Creditor's pre-petition arrears over a period not  
13 to exceed 60 months.

14 Creditor now objects to the Chapter 13 Plan filed herein by the Debtor.

## 15 II.

### 16 ARGUMENT

17 Application of the provisions of 11 United States Code section 1325 determines when a plan  
18 shall be confirmed by the Court. Based on the above sections, as more fully detailed below, this  
19 Plan cannot be confirmed as proposed.

#### 20 A. DOES NOT MEET FULL VALUE REQUIREMENT 21 11 U.S.C. ' 1325(a)(5)(B)(ii).

22 Amount of Arrearage Not Correct. The pre-petition arrears are not specified in the Chapter  
23 13 Plan. The actual pre-petition arrears equal \$9093.91, based on Creditor's Proof of Claim to be  
24 filed prior to the deadline. As a result, the Plan fails to satisfy 11 U.S.C. ' 1325(a)(5)(B)(ii).

#### 25 B. PROMPT CURE OF PRE-PETITION ARREARS 26 11 U.S.C. ' 1322(d).

27 Debtor will have to increase the payment through the Chapter 13 Plan to this Creditor by  
28 approximately \$151.57 monthly in order to cure Creditor's pre-petition arrears over a period not to

1 exceed 60 months.

2 WHEREFORE, Creditor respectfully requests:

3 1. That confirmation of the Debtor's Chapter 13 Plan be denied;

4 2. Alternatively, that the Plan be amended to reflect that the pre-petition arrears listed in  
5 Creditor's Proof of Claim be paid within a period not exceeding 60 months; and

6 3. For such other and further relief as this Court deems just and proper.

7 Respectfully submitted,

8 Dated: May 6, 2015 PITE DUNCAN, LLP

9  
10 /s/ Jesse A. P. Baker  
11 JESSE A. P. BAKER, WSBA #36077  
12 Attorneys for BENEFICIAL MORTGAGE CORP  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES BANKRUPTCY COURT

WESTERN DISTRICT OF WASHINGTON - TACOMA DIVISION

CASE NO. 15-40991-BDL

CERTIFICATE OF SERVICE BY MAIL

I, Anne E. Penaloza, am a resident of San Diego, California, and I am over the age of eighteen (18) years, and not a party to the within action. My business address is 4375 Jutland Drive, Suite 200; P.O. Box 17933, San Diego, CA 92117-0933.

I served the attached OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN and REQUEST FOR SPECIAL NOTICE by placing a true copy thereof in an envelope addressed to:

SEE ATTACHED SERVICE LIST

which envelope was then sealed and postage fully prepaid thereon, and thereafter, on May 6, 2015, deposited in the United States Mail atSan Diego, California. There is regular delivery service between the place of mailing and the place so addressed by the United States Mail.

I certify under penalty of perjury that the foregoing is true and correct.

Dated: May 6, 2015 /s/ Anne E. Penaloza  
ANNE E. PENALOZA

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**SERVICE LIST**

**DEBTOR(S)**

William Edward Burchfield  
4929 219th Ave SW  
Centralia, WA 98531

**DEBTOR(S) ATTORNEY (via electronic notice)**

Rafal A Gorski  
Attorney at Law  
10116 36th Ave Ct SW Ste 206  
Lakewood, WA 98499  
ADWOKAT4U@hotmail.com

**CHAPTER 13 TRUSTEE (via electronic notice)**

TacomaCh13/ K. Michael Fitzgerald  
1551 Broadway, Ste 600  
Tacoma, WA 98402  
courtmail@seattlech13.com

**U.S. TRUSTEE (via electronic notice)**

United States Trustee  
700 Stewart St Ste 5103  
Seattle, WA 98101  
USTPRegion18.SE.ECF@usdoj.gov